

**BEFORE THE
MISSOURI ETHICS COMMISSION**

Filed
JUN 18 2015
Missouri Ethics
Commission

MISSOURI ETHICS COMMISSION,)	
)	
Petitioner,)	
)	
v.)	
)	
ROBIN JOBE,)	Case No. 15-0015-I
President, St. Clair Fire Protection District,)	
)	
and)	
)	
DAVE BERKEL,)	
Treasurer, St. Clair Fire Protection District,)	
)	
)	
Respondents.)	

CONSENT ORDER

The parties have filed a Joint Stipulation of Facts, Waiver of Hearing, and Proposed Consent Order with the Missouri Ethics Commission in this matter. Accordingly, the Missouri Ethics Commission accepts as true the facts stipulated and finds that Respondents Jobe and Berkel violated Sections 115.646 and 130.047, RSMo.

The Commission directs that all terms and orders of the Joint Stipulation be adopted herein and implemented.

1. Respondents shall comply with all relevant sections of Section 115.646 and Chapter 130, RSMo.
2. It is the order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$1,000 pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$100 of that fee within forty-five (45) days after the date of this Order, the remainder of the fee will be stayed, subject to the provisions

below. The fee will be paid by check or money order made payable to and sent to the Missouri Ethics Commission.

3. Regardless of the stay in paragraph 2 above, if any Respondent commits any further violations of the use of public funds laws under Section 115.646, RSMo, or the campaign finance laws under Chapter 130, as amended, within the two-year period from the date of this order, then the Respondent who committed the violation will be required to pay the remainder of the fee. The fee will be due immediately upon final adjudication finding that such Respondent committed such a violation.
4. Respondents Jobe and Berkel shall be jointly and severally liable for all fees imposed under this order.

SO ORDERED this 18th day of June, 2015

By:



Charles E. Weedman, Jr., Chair
Missouri Ethics Commission

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**JOINT STIPULATION OF FACTS, WAIVER OF HEARING
BEFORE THE MISSOURI ETHICS COMMISSION, AND
CONSENT ORDER WITH JOINT PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The undersigned parties jointly stipulate to the facts and consent to the action set forth below.

The undersigned Respondents, Jobe and Berkel, acknowledge that they have received and reviewed a copy of the Complaint filed by the Petitioner in this case, and the parties submit to the jurisdiction of the Missouri Ethics Commission.

The undersigned Respondents further acknowledge that they are aware of the various rights and privileges afforded by law, including but not limited to: the right to appear and be represented by counsel; the right to have all charges against Respondents be proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Respondents; the right to present evidence on Respondents' behalf at the hearing; and the right to a decision upon the record of the hearing. Being aware of

these rights provided to Respondents by operation of law, the undersigned Respondents knowingly and voluntarily waive each and every one of these rights and freely enter into this Joint Stipulation of Facts, Waiver of Hearing before the Missouri Ethics Commission, and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law, and agree to abide by the terms of this document.

I.

Based upon the foregoing, the Petitioner and the undersigned Respondents jointly stipulate to the following and request that the Missouri Ethics Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law, as follows:

JOINT PROPOSED FINDINGS OF FACT

1. The Missouri Ethics Commission is an agency of the State of Missouri established pursuant to Section 105.955, RSMo, in part for the purpose of enforcing the provisions of Chapters 115 and 130, RSMo.
2. Respondent Jobe was at all times relevant to this complaint the President of the St. Clair Fire Protection District.
3. Respondents Berkel was at all times relevant to this complaint the Treasurer of the St. Clair Fire Protection District.
4. St. Clair Fire Protection District is a political subdivision of the State of Missouri.
5. Pursuant to Section 105.961, RSMo, the Commission's staff investigated a complaint filed with the Commission and reported the investigation findings to the Commission.
6. Based on the report of the Commission's staff, the Commission determined that there were reasonable grounds to believe that violations of law occurred, and it therefore authorized a hearing in this matter pursuant to Section 105.961.3, RSMo.

COUNT I

Use of Public Funds

7. The St. Clair Fire Protection District voted on a ballot measure regarding a bond issue and operating levy for the Fire Protection District in the April 7, 2015 election.

8. Respondents Jobe and Berkel, as members of the St. Clair Fire Protection District, created and distributed a mailer relating to the bond issue and tax levy.

9. Respondents caused the St. Clair Fire Protection District to spend \$765 in public funds for the printing, postage, and other costs associated with the mailer.

10. A true and accurate copy of the mailer created and distributed by Respondents is attached hereto and incorporated by reference as Exhibit 1.

11. One portion of the mailer included the following:

Message From Board of Directors

As your directors we are dedicated to providing and overseeing the safest and best Fire Service available for your District. Everyone today knows that expenses are continuing to go up and ours are no different. For us to maintain and improve the services that we are currently providing we have to appeal to YOU, our taxpayers for more funds. This is not an appeal for wants but rather NEEDS of the District. We as the Board of Directors have implemented safeguards to make sure that your tax dollars are used to provide the best Fire Service available to each resident and business owner of the district. We are doing our utmost to maintain a transparent

and accountable board. An invitation is extended to residents and business owners to attend our monthly meetings.

[signed by Respondents Jobe and Berkel]

COUNT II

Non-committee expenditure report

12. For the St. Clair Fire Protection District the local election authority is the Franklin County Clerk's Office.

13. Respondents Jobe and Berkel, as members of the St. Clair Fire Protection District, made a total of approximately \$765 in expenditures for the mailer discussed in Count I, consisting of approximately \$315 for paper, envelopes and labels, approximately \$400 in postage and \$50 in copying time.

14. St. Clair Fire Protection District, acting through Respondents, did not file a non-committee expenditure report with the Franklin County Clerk's office, disclosing the \$765 in expenditures.

JOINT PROPOSED CONCLUSIONS OF LAW

COUNT I

Use of Public Funds

1. "No contribution or expenditure of public funds shall be made directly by any officer, employee or agent of any political subdivision to advocate, support, or oppose any ballot measure" § 115.646, RSMo.

2. There is probable cause to believe that Respondents Jobe and Berkel violated Section 115.646, RSMo, by spending public funds of the St. Clair Fire Protection District to support a ballot measure in the April 7, 2015 ballot, and that Respondents did so knowingly.

COUNT II

Non-committee expenditure report

3. Any person who is not a defined committee who makes an expenditure or expenditures aggregating five hundred dollars or more . . . in support of, or in opposition to, the qualification or passage of one or more ballot measures, other than a contribution made directly to a candidate or committee, shall file a report signed by the person making the expenditures, or that person's authorized agent." § 130.047, RSMo.

4. The non-committee expenditure report must include "the name and address of the person making the expenditure, the date and amount of the expenditure or expenditures, the name and address of the payee, and a description of the nature and purpose of each expenditure." § 130.047, RSMo.

5. The non-committee expenditure report must be filed with the "appropriate officer having jurisdiction over the election of the . . . ballot measure in question as set forth in section 130.026." § 130.047, RSMo.

6. The report is due "no later than fourteen days after the date of making an expenditure which by itself or when added to all other such expenditures during the same campaign equals five hundred dollars or more." § 130.047, RSMo.

7. "If, after filing such report, additional expenditures are made, a further report shall be filed no later than fourteen days after the date of making the additional expenditures; except that, if any such expenditure is made within fourteen days prior to an election, the report shall be filed no later than forty-eight hours after the date of such expenditure." § 130.047, RSMo.

8. For purposes of Chapter 130, RSMo, a person is “an individual, group of individuals, corporation, partnership, committee, proprietorship, joint venture, any department, agency, board, institution or *other entity of the state or any of its political subdivisions . . .*” § 130.011(22), RSMo (emphasis added).

9. For purposes of Chapter 130, RSMo, an expenditure is “a payment, advance, conveyance, deposit, donation or contribution of money or anything of value for the purpose of supporting or opposing . . . the qualification or passage of any ballot measure . . . ; a payment, or an agreement or promise to pay, money or anything of value . . . for the purchase of goods, services, property, facilities or anything of value for the purpose of supporting or opposing . . . the qualification or passage of any ballot measure.” § 130.011(16), RSMo.

10. Under Section 130.026, the “appropriate officer” for a county ballot measure is the local election authority. § 130.026.2(5)(b), RSMo.

11. There is probable cause to believe that Respondents violated Section 130.047, RSMo, by making expenditures of approximately \$765 for a mailer in support of a local bond issue and operating levy, but did not file a non-committee expenditure report disclosing those expenditures with the Franklin County Clerk’s office, and that Respondents did so knowingly.

II.

Based on the foregoing, the parties hereto mutually agree and stipulate that the following shall constitute the order entered by the Missouri Ethics Commission in this matter. This order will be effective immediately upon the issuance of the Consent Order of the Missouri Ethics Commission without further action by any party:

1. The parties understand that the Petitioner will maintain this Joint Stipulation as an open and public record of the Missouri Ethics Commission.

2. The Commission shall issue its Consent Order in the form attached hereto as Exhibit A.

a. Respondents shall comply with all relevant sections of Section 115.646 and Chapter 130, RSMo.

b. It is the Order of the Missouri Ethics Commission that a fee is imposed against Respondents in the amount of \$1,000, pursuant to Section 105.961.4(6), RSMo. However, if Respondents pay \$100 of that fee within forty-five days after the date of the Order, the remainder of the fee will be stayed. The fee will be paid by check or money order made payable to the Missouri Ethics Commission.

c. Regardless of the stay in paragraph 2.b above, if any Respondent commits any further violation of the use of public funds laws under Section 115.646, RSMo, or the campaign finance laws under Chapter 130, RSMo, within the two-year period from the date of this order, then the Respondent who committed the violation will be required to pay the remainder of the fee. The fee will due immediately upon final adjudication finding that such Respondent has committed such a violation..

d. Respondents Jobe and Berkel shall be jointly and severally liable for all fees imposed under this order, subject to the terms in subparagraph c above.

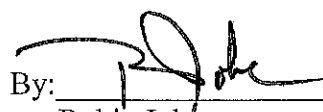
3. The parties consent to the entry of record and approval of this Joint Stipulation and to the termination of any further proceedings before the Commission based upon the Complaint filed by the Petitioner in the above action.


4. Respondents, together with their heirs, successors, and assigns, do hereby waive, release, acquit and forever discharge the Missouri Ethics Commission and its attorneys of or from any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, a claim for attorney's fees whatsoever which Respondents or Respondents' attorney may now have or which they may hereafter have, which are based upon or arise out of the above cases.

SO AGREED:


RESPONDENT ROBIN JOBE

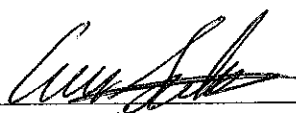
PETITIONER MISSOURI ETHICS
COMMISSION

By:  6/9/2015
Robin Jobe Date

By:  6/17/15
James Klahr Date
Executive Director

RESPONDENT DAVID BERKEL

By:  6/9/15
David Berkel Date

By:  6/17/15
Curtis R. Stokes Date
Attorney for Petitioner